



COLUMBIA HEIGHTS POLICE DEPARTMENT POLICY MANUAL

TITLE: FORFEITURE PROCEDURES	GENERAL ORDER NUMBER: 613
REFERENCES: M.S. § ATTACHMENTS:	EFFECTIVE DATE: 06/01/2016
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It shall be the policy of the Columbia Heights Police Department that all employees of the agency, all employees assigned to another law enforcement agency's task force and all employees assigned from an outside law enforcement agency to a task force in which this agency serves as the fiscal agent, shall follow all state and federal laws pertaining to the processing of property seized for forfeiture.

613:01 Definitions

Cash: money in the form of bills or coins, traveler's checks, money orders, checks or other forms of electronic money or stored value cards, including but not limited to gift cards, debit cards, gift cards/certificates or other negotiable financial instruments.

Conveyance Device: a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property, which is in fact, itself stolen or taken in violation of the law.

Firearms/ammunition/firearm accessories: a device that projects either single or multiple projectiles at high velocity. Ammunition is a term meaning the assembly of a projectile and its propellant. Accessories include but are not limited to holsters, gun cases, firearm optics, suppression devices, cleaning supplies, etc.

Forfeiture: the process by which legal ownership of an asset is transferred to a government or other authority.

Jewelry/Precious Metals/Precious Stones: The term "precious metals/precious stones" includes items of jewelry, such as rings, necklaces, and watches that reasonably appear to be made of precious metals or precious stones. Precious metals include but are not limited to gold, silver, platinum, iridium, and palladium. Precious stones, often referred to as gemstones, include but are not limited to diamonds, emeralds, and rubies.

Forfeiture/Seized Property Reviewer: an Agency employee responsible for reviewing all forfeiture cases and is the liaison between the Agency and prosecutor's office.

Seizure: the act of law enforcement officials taking property, including cash, vehicles, etc. that has been used in connection with or acquired by illegal activities.

613:02 Narcotics Related Forfeitures

- A. Amount of controlled substances involved:
 - 1. For vehicle forfeitures, there should be a felony narcotics charge and \$100 worth of narcotics.
 - 2. Cash forfeitures must involve a felony charge and \$100 in narcotics.
- B. Must be a case that gets charged in court.
- C. Must be a legal search and seizure.

D. Owner of item seized should be served with the appropriate seizure form and property receipt at the time of the incident.

1. If the seized property is a vehicle, it should only be seized if the owner was the defendant or we can prove that he/she had knowledge that the vehicle was being used in a drug offense.
2. Leased and rented vehicles should not be seized.
3. Vehicles should only be seized if there is at least \$3,000 equity in the vehicle (officers should consider a lien holder search to determine equity).

613:03 DUI Vehicle Seizures

- A. The seizure must meet the criteria of MN Statutes related to DUI forfeiture. The owner must be the driver, or we must be able to show that the owner had knowledge that the vehicle would be operated *contrary to law* (meaning that the owner knew the suspect would be impaired, or did not have a license, had an open bottle, etc.) ** There is an exception if a driver is a family or household member of the owner and the defendant has three or more prior impaired driving convictions, in which case the owner is presumed to know that any use of the vehicle by the defendant will be contrary to law.
- B. The vehicle owner must be served with a copy of the appropriate seizure notice at the time of arrest, or by certified mail.
- C. The case must involve a successful revocation or must be successfully adjudicated.
- D. Leased and rented vehicles should not be seized.
- E. Vehicle should have at least \$3,000 equity.

613:04 Administrative Forfeitures

The following property may be seized and is presumed under MN STAT 609.5314 to be subject to administrative forfeiture if the item has a retail value of \$50,000.00 or less:

All money, precious metals, and precious stones found in proximity to:

- Controlled substances;
- Forfeitable drug manufacturing or distributing equipment or devices; or
- Forfeitable records of manufacture or distribution of controlled substances.

All conveyance devices containing controlled substances with a retail value of \$100.00 or more if possession or sale of the controlled substance would be a felony under chapter 152.

Generally speaking, if the seizure is a conveyance device, it must be used in commission of designated offense or as transportation to scene of designated offense.

All firearms, ammunition, and firearm accessories found:

- In a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;
- On or in proximity to a person from whom a felony amount of controlled substance is seized; or
- On the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under chapter 152.

Seizure of property not listed above must be processed in coordination with and approved by the Forfeiture/Seized Property Reviewer.

613:05 Processing Seized Property for Forfeiture Proceedings

When any property as described in the above section is seized, the peace officer making the seizure must prepare the following:

- The proper Notice of Seizure and Intent to Forfeit Property form.
 - This form must be completed to include the following: a list describing each item seized, the name of the individual served with the Notice, location, and the date of seizure. Administrative

forfeiture notices are NOT to be given for assets seized under MN STAT 609.5314 if the retail value of the asset exceeds \$50,000.00.

- A receipt for the item(s) seized.
- The Notice form also contains information in English, Hmong, Somali and Spanish concerning the right to obtain judicial review and the procedure under MN STAT 609.5314 to follow to obtain it. The form must be dated and signed by the peace officer conducting the seizure. An agency case number must be included on the form. The individual from whom property is seized must be given an opportunity to sign the seizure notice form. If the person refuses, the peace officer conducting the seizure must check the appropriate box indicating the refusal to sign. If property is seized from multiple individuals, a separate seizure form will be completed for each individual. A copy of the seizure form must be given to the individual served.

All property subject to and being processed for forfeiture through the agency must be held in the custody of the agency.

The peace officer conducting the seizure shall forward the original and pink copy of the seizure notices, seized property processing worksheets, property receipts and reports will be forwarded to the Forfeiture/Seized Property Reviewer within 10 days of seizure.

The peace officer conducting the seizure shall inform the Forfeiture/Seized Property Reviewer of the estimated retail value of drugs found in proximity to the asset seized.

Cash

Peace officers shall not seize cash having an aggregate value less than \$300.00, unless pre-recorded buy funds are included in the cash seized. Cash shall be recounted and the amount verified by another employee of the Agency. The property bag and/or inventory receipt shall then be co-signed when cash is involved.

All forfeitable cash seized will be turned over to the Forfeiture/Seized Property Reviewer or property/evidence room as soon as practicably possible.

Prior to deposit with the Forfeiture/Seized Property Reviewer, peace officers shall examine all cash seized to determine whether it contains any buy funds. Peace officers shall document the recovery of all buy funds and deposit those funds with the Forfeiture/Seized Property Reviewer to be returned to the appropriate unit's buy fund account.

Peace officers seizing cash shall also prepare a property inventory. If cash is seized from multiple individuals, a property inventory receipt will be completed for each individual. The property inventory receipt shall specify the total amount of cash seized from each individual. The agency property inventory shall also contain a detailed description of all checks, money orders and/or travelers checks or other financial instruments.

The peace officer conducting the seizure shall provide a copy of the completed property inventory receipt to the Forfeiture/Seized Property Reviewer.

It is the seizing peace officer's responsibility to secure the cash consistent with the agency policy or procedure.

Jewelry/Precious Metals/Precious Stones

It is the policy of the Columbia Heights Police Department to not seize jewelry, precious metals or precious stones with intent to forfeit.

Conveyance Device

A. In general, the State must prove that the defendant was the owner of the property and establish a nexus between the forfeited property and the crime.

B. Conveyance devices should have equity of at least \$3,000.

Upon seizure for forfeiture, all conveyance devices shall immediately be either taken to a secure designated area or to an agency approved impound facility.

Peace officers shall inventory the conveyance device and its contents in accordance with agency policy. Peace officers shall also complete applicable report forms and distribute them appropriately.

Firearms/Ammunition/Firearm Accessories

When firearms, ammunition, or firearms accessories are seized, they shall be inventoried and delivered to the property/evidence room as per agency policy/procedure.

It is the policy of the Columbia Heights Police Department that successfully forfeited firearms and related accessories not retained for departmental use will be destroyed.

REPORT WRITING

Peace officers seizing property must complete a report. All reports must include a description of the items seized, where the property is turned in/stored, the name of the individual served, the date that the seizure form was served, the name of the serving peace officer, and whether or not the individual signed the Notice of Seizure and Intent to Forfeit Property form.

All reports dealing with seized property will be completed within 24 hours of the seizure when practically possible.

613:06 Additional Considerations for Specific Crimes

A. Fleeing in a Motor Vehicle Seizures

1. Verify that the driver of the vehicle is the actual owner of the vehicle.
2. Serve owner with "Notice of Seizure of Motor Vehicle". This notice must be personally served upon the defendant. **This notice must be served upon defendant at time of seizure as the owner must be given at least 48 hours notice of the hearing and a hearing must be held within 96 hours of the seizure.**
3. Vehicle should have at least \$3,000 equity.

B. Drive-By Shooting

1. Shots fired from car at person or building.
 2. Owner must be driver or aware that the vehicle was being used in designated offense.
 3. Vehicles should only be seized if there is \$3,000 equity.
 4. Leased or rented vehicles should not be seized.
- A. Police initiate with notice (must be served upon registered owner within 7 days of offense).
 - B. Conviction not required, but conviction creates presumption that vehicle was used in commission of violation of 609.66, subd. 1e.

613:07 Responsibility

- A. It shall be the responsibility of officers initiating the forfeiture proceeding to utilize the guidelines set forth in this document.
- B. It shall be the responsibility of the duty supervisor to review forfeitures to ensure that they meet the criteria set forth in this document.
- C. The Administrative Sergeant will be the designated Forfeiture/Seized Property Reviewer. It will be their responsibility to complete required reports to the Office of the State Auditor detailing completed forfeitures, and to act as liaison with prosecutors and other interested parties related to forfeiture matters. (See Operational Memorandum on Forfeitures and Seized Cash.)

613:08 Designated Offenses for Forfeiture of Property

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| 609.185 | Murder 1 st Degree |
| 609.19 | Murder 2 nd Degree |
| 609.195 | Murder 3 rd Degree |
| 609.21 | Criminal Vehicular Homicide & Injury |
| 609.221 | Assault 1 st Degree |
| 609.222 | Assault 2 nd Degree |
| 609.223 | Assault 3 rd Degree |
| 609.2231 | Assault 4 th Degree |
| 609.24 | Simple Robbery |
| 609.245 | Aggravated Robbery |
| 609.25 | Kidnapping |
| 609.255 | False Imprisonment |

- 609.322 Solicitation, Inducement, or Promoting
Prostitution
- 609.324 Other Prohibited Prostitution/
Solicitation Offenses
- 609.3613 Crim. Sex 1st Degree subd. (1)
Clauses a to f
- 609.343 Crim. Sex 2nd Degree subd. (1)
Clauses a to f
- 609.344 Crim. Sex 3rd Degree subd. (1)
Clauses a to e & h to j
- 609.345 Crim. Sex 4th Degree subd. (1)
Clauses a to e & h to j
- 609.613 Bribery
- 609.6135 Corruptly Influencing a Legislator
- 609.466 Medical Assistance Fraud
- 609.485 Escape from Custody
- 609.487 Fleeing a Peace Officer in a Motor
Vehicle
- 609.52 Theft
- 609.525 Bring Stolen Goods into the State
- 609.527 Identity Theft
- 609.53 Receiving Stolen Property
- 609.54 Embezzlement of Public Funds
- 609.551 Rustling & Live Stock Theft
- 609.561 Arson 1st Degree
- 609.562 Arson 2nd Degree
- 609.563 Arson 3rd Degree
- 609.582 Burglary
- 609.59 Possession of Burglary Tools or Theft
Tools
- 609.595 Damage to Property
- 609.631 Check Forgery; Offering a Forged
Check
- 609.66 Dangerous Weapons; Drive-By
Shootings
- 609.671 Environmental Criminal Penalties
- 609.687 Adulteration
- 609.821 Financial Transaction Card Fraud

BY ORDER OF:

Scott Nadeau, Chief of Police

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